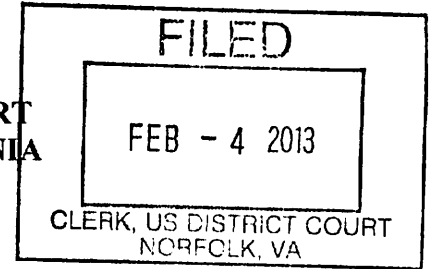


**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Newport News Division**



CARLTON HOFER,
Plaintiff,

v.

Civil No. 4:11cv172

MICHAEL J. ASTRUE,
Commissioner of Social Security,
Defendant.

ORDER

This matter is before the Court on the Report and Recommendation of U.S. Magistrate Judge Tommy E. Miller with respect to the parties' cross-motions for summary judgment. The Report and Recommendation was filed on January 9, 2013. Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, a party must file any objections to a magistrate judge's proposed findings and recommendations within fourteen days after being served with a copy of the recommended disposition. No party has filed objections to the Report and Recommendation as of the date of this Order, and the time within which to file such objections has passed.

The magistrate judge recommended that: (1) the plaintiff's motion for summary judgment be granted to the extent that it seeks remand of the Commissioner's decision and denied to the extent it seeks reversal and entry of an order directing the award of benefits; (2) the defendant's motion for summary judgment be denied; and (3) the final decision of the Commissioner be vacated and remanded for further administrative proceedings. Pursuant to § 636(b)(1) and Rule 72(b)(3), the undersigned must conduct a de novo review of those portions of the magistrate judge's report and recommendation to which objection is made. But "[t]o accept the report and recommendation of a magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record." Gusler v. City of Long Beach, 823 F.

Supp. 2d 98, 109 (E.D.N.Y. 2011). Having reviewed the record and finding no clear error, the Court adopts the Report and Recommendation without exception.

Accordingly, the plaintiff's motion for summary judgment is **GRANTED IN PART** and **DENIED IN PART**, the defendant's motion for summary judgment is **DENIED**, the final decision of the Commissioner is **VACATED**, and this matter is **REMANDED** to the Commissioner for further administrative proceedings consistent with this Order and the United States Magistrate Judge's Report and Recommendation filed in this matter on January 9, 2013.

IT IS SO ORDERED.

February 4th, 2013
Norfolk, Virginia


Robert G. Douglas
Senior United States District Judge